

Ann K. Chapman, OSB #83283
Douglas R. Ricks, OSB #044026
VANDEN BOS & CHAPMAN, LLP
319 S.W. Washington, Suite 520
Portland, Oregon 97204
TELEPHONE: (503) 241-4869
FAX: (503) 241-3731

Of Attorneys for Creditor Steven Allen Smith, P.C.

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re) Case No. 14-32050-pcm13
)
Michael Madison O'Neill) MOTION TO ALLOW LATE CLAIM OF
) STEVEN ALLEN SMITH, P.C.
Debtor.) (Claim No. 16)

Creditor Steven Allen Smith, P.C. ("Smith"), by and through its attorneys, Vanden Bos & Chapman, LLP, moves this Court for an Order authorizing and directing the Trustee to treat the claim to be filed by Smith (Claim No. 16) as a timely filed secured claim entitled to distribution under the terms of the Debtor's confirmed Chapter 13 plan and 11 USC Section 1326(c).

In support of this motion, Smith respectfully represents as follows:

1. Debtor filed his Chapter 13 bankruptcy on April 10, 2014. See Dkt. No. 4, herein.
2. Debtor's schedules listed a secured claim owed to Smith in the amount of \$50,000.00 with a lien against the real property located at 7133 NE Glisan, Portland, OR 97213 ("Business Property"). See Dkt. No. 8. The listing for

Smith's claim does not include any contention that the claim is disputed, contingent, or unliquidated. *Id.*

3. Debtor's Chapter 13 Plan dated 4/25/14 (the "Plan") provides for Smith's claim as a secured creditor with a valid interest in the Business Property in the amount of \$50,000.00 to be paid in full with 6% interest. See Dkt. No. 11.
4. The Plan was confirmed by this Court without any change to Smith's status as a secured creditor and without any reservation of rights to challenge Smith's lien against the Business Property. See Dkt. No. 46.
5. Based on the Plan, Smith was willing to accept its treatment of his lien against the Business Property and, therefore, did not challenge the Plan or file a claim to challenge Debtor's treatment and valuation of Smith's claim. This was reasonable under the circumstances as a valid lien would pass through the bankruptcy unaffected, even without a filed claim. *Cortez v. American Wheel*, 191 B.R. 174, 177 n.2 (9th Cir. BAP 1995).
6. On March 10, 2015, almost seven months after confirmation of the Plan, Debtor filed an adversary proceeding against Smith to have Smith's lien against the Business Property declared invalid. See Dkt. No. 69.
7. The effect of the Debtor's adversary proceeding, if successful, would be to negate any recovery to Smith on its claim against the Debtor and is completely contrary to the treatment in the Plan.
8. In light of the Debtor's reversal on the promised payment to Smith, Smith should be permitted to have a valid claim in the case by allowing the proof of claim that Smith filed to be treated as timely.

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9. The allowance of Smith's proof of claim will have no negative impact on other creditors as the current body of timely claims are to receive 100% on their claims. This is because the filed unsecured claims total less than the best-interest-of-creditors number in the Plan. See Dkt. No. 46 and Claims Register.

Wherefore, Smith prays for an entry of an order authorizing and directing the Trustee to treat the claim of Smith as an secured claim entitled to distribution with all other timely filed, allowed claims.

Respectfully submitted;

VANDEN BOS & CHAPMAN, LLP

By:/s/Douglas R. Ricks for Ann K. Chapman
Ann K. Chapman, OSB #83283
Douglas R. Ricks, OSB #044026
Of Attorneys for Creditor Steven Allen Smith, P.C.

In re Michael Madison O'Neill
Chapter 13 Bankruptcy Case No. 14-32050-pcm13

CERTIFICATE - TRUE COPY

DATE: June 15, 2015

DOCUMENT: MOTION TO ALLOW LATE CLAIM OF STEVEN ALLEN SMITH,
P.C.

I hereby certify that I prepared the foregoing copy of the foregoing named document and have carefully compared the same with the original thereof and it is a correct copy therefrom and of the whole thereof.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing on:

Steven Allen Smith, PC
5745 NE Glisan St.
Portland, OR 97213

Michael Madison O'Neill
132 NE 57th Ave
Portland, OR 97213

by mailing a copy of the above-named document to each of them in a sealed envelope, addressed to each of them at his or her last known address. Said envelopes were deposited in the Post Office at Portland, Oregon, on the below date, postage prepaid.

I hereby certify that the foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system on the date set forth below.

Dated: June 15, 2015

VANDEN BOS & CHAPMAN, LLP

By:/s/ ***Douglas R. Ricks***

Douglas R. Ricks, OSB #044026
Of Attorneys for Creditor Steven Allen Smith, PC